# THE CORONER'S OFFICE

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The word coroner is derived from the Latin *coronarius*, which is perhaps more literally translated crowner. Such was, in fact, the older English name of the officer from whose duties have been developed those of the modern coroner. The crowner of old was the personal representative of the crown and his chief original duty was to look after the local interests of the crown. It does not seem unfair to assume that it was a very short step from the conservation of property already the crown's to the confiscation of effects of value found upon unidentified dead, and that gradually the main duty of the coroner came to be the inquiring into the mode of death of those violently slain. Most of our American law is derived from English law and precedent, and, in taking over the coronarial office, most of the states of the Union have made little alteration in the main duties of the office; such changes as have been made have consisted largely in the addition of extraneous and unrelated duties. All this has served to make the coroner of to-day, in most states, an officer with most poorly defined and often conflicting duties. Perhaps this fault depends upon the fact that Anglo-Saxon law was, and is, primarily rural law. Rural law did not originally contemplate the aggregation of people into cities and has not always been able to adjust itself satisfactorily to the complicated and new conditions brought about by such aggregations. The modern coroner, in sparsely populated rural counties, might well continue in his present indefinite state without doing any very great amount of harm. But in more densely populated counties and in cities the main duties of the coroner are of great importance.

Except in those few states where the laws have been so radically altered as to do away with the coroner's office entirely—a distinct departure from Anglo-Saxon precedent—the duties of the office are generally performed under loose statutory provisions. Indefinite basic legislation must of necessity lead to inadequate performance

of the duties *supposed* to belong to any office. This fact has led to investigations of the coroner's office from time to time by civic associations and by medical and legal organizations; upon the part of the latter because of the nature of the duties of the office, and upon the part of civic associations because of inefficient administration. During the past year the Municipal Association, now the Civic League, of Cleveland, began a series of investigations into the efficiency of administration of the various local county offices. The coroner's office was the second selected for examination. The primary inquiry into this office soon brought to light that, whatever poor administration the local office might show, questions were involved that were broader than mere local and individual efficiency or inefficiency, and that the state laws under which the office operates appeared to be at fault. In order that a more thorough investigation into underlying faults might be made, a committee of four physicians and four attorneys, with the writer as chairman, was named. A detailed study was made, (1) of the Ohio statutory provisions relating to the coroner, (2) of the conduct of the office throughout the state, and (3) of the laws relating to the office in other states. Since this study showed that local faults are common to practically all states whose laws provide for the maintenance of the coroner's office, this paper is based largely upon the work and the findings of that committee.

In Ohio, as elsewhere, the chief duties of the coroner, as laid down by statute, relate to activities in cases of death supposed to be due to violence. His function in such cases is to determine, first, whether or not death has been due to violence, and usually violence is defined as unlawful means which call for punishment, secondly, from his inquiry and from his questioning of witnesses he must attempt to fix the responsibility for the crime and to name the perpetrator, and must take such steps as will aid in the apprehension of the suspect. Such are the essential duties of the coroner in practically all states. The importance of, and the training required for, their proper performance will be discussed later. Such difficulties as occur in the administration of the coroner's duties are due, in part, to an improper understanding of the qualifications required, leading often to slipshod and useless, and sometimes actually harmful, investigations of murder cases; in part, to statutory indefiniteness, so that the coroner often acts in cases in which he has no jurisdiction,

which leads to uneconomical administration; and, in part, to the addition by legislative action of anomalous duties which have no relation to the coroner's chief function. As somewhat ridiculous examples of the latter we may cite two provisions of the Ohio statutes. One requires that the coroner shall assist in the endeavor to arrest convicts escaping from the penitentiary; and another makes it his duty to arrest persons selling liquor contrary to law within two miles of the place where an agricultural fair is being held. It is the provisions, handed down from the older English law without revision to meet more modern conditions, all proper enough when the coroner was a sort of assistant sheriff in rural communities, that have brought the office of coroner into disrepute. In general, we must conclude that the coroner's office is an anachronism and that it does not fit in well with the complexities of modern urban civilization. In every state where this has not already been done, there should be such a revision of the statutes as would make the coroner's chief duty the investigation of suspicious deaths and as would place such investigation in the hands of properly qualified officers.

Since in most states the laws provide that the main function of the coroner shall be his investigation into violent deaths, and since this should be his sole function, it is well to go into this matter somewhat more in detail. Theoretically, the coroner should offer invaluable aid in cases of murder. In so far as he must determine that death in any given case has been caused by criminal means, his duties are medical. In the questioning of witnesses, either alone or before a jury, his duties are of a legal or judicial character. It is demanding rather much that a single individual should be able to perform a medicolegal autopsy and to give valuable testimony in a criminal prosecution, and that he, at the same time, should have legal training sufficient to conduct an inquiry which would aid in the detection of the criminal. And, as a matter of fact, the individual who attempts to combine these highly specialized functions, when he acts as coroner, usually is inadequately trained in both. The Ohio statutes require no personal qualifications of the coroner and demand only that he shall not be a practicing attorney. In Ohio the coroner is by custom usually a practicing physician. In many counties of Indiana he is an undertaker. What he may be in other states is a matter of small moment, so long as he certainly cannot be expert both in medical and legal matters. Because of inadequate personal training,

the medical duties of the coroner are usually inefficiently performed. Upon this point the conclusion reached in the local investigation was that "the autopsies performed by the coroner. . . are valueless, both in determining the cause of death for vital statistical purposes and as a basis for evidence in prosecutions for criminal offenses." Furthermore, because of improper legal training, the coroner is not able to bring out important points; often the prosecution is hampered because the coroner's inquest permits the "covering up" of witnesses proved important or because the testimony brought out aids the suspected criminal in escaping punishment. The actual prosecution of criminals rests in the hands of the prosecuting attorney or the commonwealth attorney. The coroner should be the latter's chief aid. As a matter of fact, the coroner usually works alone, in a blind and untrained fashion. If the office of coroner is to be retained, there should at least be statutory provisions which would make mandatory the closest cooperation with the prosecutor.

However, since the prosecution of criminals is the duty of the prosecutor, upon whom all of the responsibility of the conduct of the case for the state must rest, and since the duties now devolving upon the coroner are of such a highly technical nature that their adequate performance by any single individual appears out of the question, it would seem preferable that some plan, other than that in vogue in most states, be devised for taking care of the coroner's duties. The present legal duties of the coroner should be performed by one conversant with the law. The creation of a new office for this purpose would not be necessary, since the responsibility for the building up of a strong case for the state in criminal trials already rests upon the prosecutor. Because he is the responsible officer in criminal actions and because of his legal training, the inquiry into the causes and the circumstances surrounding supposedly violent deaths should be conducted by him. And it should be conducted in such a way as to render every possible aid to the state in a future prosecution. With this object in view witnesses should be kept segregated and those whose testimony is of importance should be placed under bond for future appearance. Interference with the rights of one who may later be called upon to defend himself in a criminal action could not be urged against this plan, since it is virtually the method of procedure in grand jury inquiries.

The holding of inquests by the prosecutor in cases where death

is supposed to be due to violence would leave remaining of the really essential duties now performed by the coroner only the medical investigations. The purpose of any postmortem examination is the determination of the cause of death. Even when there is no suspicion of criminality involved, the proper performance of an autopsy requires some knowledge of normal and morbid anatomy and such technical experience as will prevent the destruction, through faulty technique, of evidence offered by the body. In the medicolegal autopsy upon the bodies of those supposedly dead of criminal violence, more is necessary than the mere finding of a gunshot wound or a stab wound as a probable cause of death. It is necessary to exclude as a probable or possible cause of death lesions other than those evidently due to violence. Furthermore, the results of the medicolegal postmortem examination must be recorded in such a way that the record may form the basis of competent testimony. The medical investigation of supposedly violent deaths should be by a properly qualified medical examiner. In addition, there should be provision for the calling in of such experts as may be needed. Particularly in deaths by poisoning, the help of one so expert in toxicology that his testimony will have weight is necessary. With the abolishment of the anachronistic coroner's office and with the transference of the legal duties now devolving upon the coroner to the public prosecutor and, further, with the medical investigation in the hands of trained medical experts, we would have an approach to the procedure in vogue in Germany and France. This plan is in use in Massachusetts, and the law of the latter state should serve as the model of the kind of intelligent legislation needed.

Laws putting such a scheme into effect should be clear and explicit in defining just what cases should come under the combined jurisdiction of the prosecutor and medical examiner. There is raised at once the important question whether there should be investigation of deaths other than those supposed to be due to violence, that is, deaths "caused by unlawful means such as usually call for the punishment of those who employ them." The coroner usually acts in two great groups of cases which do not come under this head; namely, deaths due to accident and deaths of persons who were unattended by a physician before and at the time of death. In some states definite provision is made for the coroner's investigation of deaths due to accidents, even to the extent of providing for the

taking of testimony of injured persons whose death appears imminent. In other states the coroner acts in such cases without definite statutory authority. Under existing conditions such investigations appear rather futile. Although the coroner may be able to place the blame for an accident and may be able to establish that a person may have been injured or killed through negligence, punishment for such negligence is not possible except in the few states which have criminal negligence laws. If there were such laws in all states, then the investigation of deaths due to accident would clearly fall under the same head as those due to violence. The mode of death could be established by the medical examiner and the blame for the accident or negligence could be fixed by the prosecutor's inquiry. Criminal prosecution could then be made with the assurance of punishment if the criminal nature of the negligence is established. Violence and negligence are very closely related and it is a rather sad commentary on modern civilization, whose growing complexity constantly tends toward an increase in the number of injuries and deaths due to negligence on the part of others than the injured or killed, that such negligence is not made criminal and punishable.

The investigation by the coroner of deaths where a physician has not been in attendance brings up the important question of the registration of vital statistics, and here again, just as in the accidental deaths, the coroner acts in many cases not definitely provided for by law. Ohio has a fairly good vital statistics law, of recent enactment, which provides that deaths of unknown cause, or when a physician has not been in attendance, are to be reported to the registrar of vital statistics, who must attempt to determine the cause of death. Only when his examination and questioning fail to reveal the cause of death is he to call in the coroner. There is no fault to find with such a method of procedure, if it is properly lived up to, and in the medical examiner plan proposed such cases might well be submitted to this officer for further investigation. Locally it was found that the number of coroner's cases is unnecessarily multiplied because physicians, police officers and undertakers report cases of the kind under discussion directly to the coroner, instead of to the registrar, as provided by law. With a proper carrying out of the vital statistics law, the procedure would be the same, whether the final investigating officer is called a coroner or a medical examiner; the latter, being supposedly more expert than the ordinary coroner, would render rather vastly more valuable service.

There is no doubt that attempts to abolish the coroner's office will meet with opposition, not only because it does away with an elective office, but also because a position of inertia in public affairs seems to be so much easier to maintain than one of progression. There can be no doubt, however, that the abolishment of the present anachronistic coroner's office and the distribution of its duties between the prosecutor and medical examiner would lead to vastly increased efficiency. The method of appointment of the medical examiner, whether by the prosecutor, the county commissioners, or some court, is a matter for solution by each state. Important for good service is the freedom of the medical examiner from political influences. That there may be in every state a few coroners who perform their duties well is not a good argument against the abolishment of the office. They are rather the exceptions which prove the rule.

In the opinion of the writer the following conclusions appear justifiable:

1. The statutes relating to the coroner's office in most states are not adapted to present-day conditions. This is especially true in cities.

2. The duties demanded of the coroner require considerable knowledge of both medical and legal matters. No single individual can be expected to be properly qualified in both subjects.

3. Because of improper medical qualifications, most coroner's autopsies are valueless, both for determining the cause of death in a scientific manner, and for furnishing the basis of expert testimony.

4. Because of inadequate legal training upon the part of the coroner, the coroner's inquest is usually not conducted to the greatest advantage of the state. In fact, it often hampers the prosecution of criminals.

5. The inquiry into the circumstances surrounding violent deaths should be by an official with legal training. Since the prosecutor or commonwealth attorney is responsible in such cases it would seem best that the inquest should be by the prosecutor's office.

6. The examination into the causes and nature of death should be by an official with proper medical training. The medical examiner would then become an important aid to the prosecutor.

7. There should be ample provision for the calling in, upon the request of the prosecutor or medical examiner, of experts.

8. In most states the investigation of the coroner into deaths due to accident or negligence leads to nothing of value. With proper criminal negligence laws the prosecutor and medical examiner would act together, in these cases, just as in deaths due to violence, for the purpose of preparing the strongest possible case in criminal actions.

9. Where there are vital statistics laws, deaths from unknown causes or deaths when a physician has not been in attendance should be reported first to the registrar of vital statistics, and not to the coroner. Only when the registrar is unable or unwilling to assign a cause of death should the medical examiner be asked to investigate; in this group of cases his examination should be made only upon the definite request of the registrar.